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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BF54

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 113

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of amendment to fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 113 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 113 to the FMP would modify the Bering Sea and Aleutian Islands (BSAI) Pacific cod fishery to set aside a portion of the Aleutian Islands Pacific cod total allowable catch (TAC) for harvest by vessels directed fishing for Aleutian Islands Pacific cod and delivering their catch for processing to shoreside processors located on land west of 170 W. longitude in the Aleutian Islands (Aleutian Islands shoreplants). The harvest set-aside would apply only if specific notification and performance requirements are met, and only during the first few months of the fishing year. This harvest set-aside would provide the opportunity for catcher vessels operating in the Aleutian Islands Pacific cod fishery, Aleutian Islands shoreplants, and the

communities where Aleutian Islands shoreplants are located to receive benefits from the Aleutian Islands Pacific cod fishery, while the notification and performance requirements would preserve an opportunity for the complete harvest of the BSAI Pacific cod resource. Amendment 113 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Submit comments on or before *[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0155, by any one of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2015-0155*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P. O. Box 21668, Juneau, AK 99802.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (e.g., name, address) confidential business information, or otherwise sensitive information voluntarily submitted by the commenter will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to

remain anonymous).

Electronic copies of Amendment 113 to the FMP and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively, the “Analysis”) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region website at <http://www.alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Julie Scheurer, 907-586-7228.

SUPPLEMENTARY INFORMATION:

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. The Council has submitted Amendment 113 to the Secretary for review. This notice announces that proposed Amendment 113 to the FMP is available for public review and comment.

Amendment 113 to the FMP was adopted by the Council in October 2015. The objective of Amendment 113 is to modify the BSAI Pacific cod fishery to prioritize the harvest of a portion of the Aleutian Islands Pacific cod TAC by catcher vessels directed fishing for Aleutian Islands Pacific cod and delivering their catch for processing to Aleutian Islands shoreplants, thereby supporting social and economic development in the western Aleutian Islands fishing communities in which those vessels operate and

shoreplants are located. The harvest set-aside would provide the opportunity for Aleutian Islands catcher vessels, shoreplants, and the communities where Aleutian Islands shoreplants are located to receive benefits from a portion of the Aleutian Islands Pacific cod fishery, while the notification and performance requirements would preserve an opportunity for the complete harvest of the BSAI Pacific cod resource.

A combination of physical, biological, economic, and management factors, such as the relatively low Pacific cod stock abundance in the Aleutian Islands and the potential influx of excess at-sea processing capacity from rationalized fisheries, have affected harvesting and processing opportunities for Pacific cod for some participants in the Aleutian Islands and created the risk that Aleutian Islands fishing communities may not be able to sustain their participation in the Aleutian Islands Pacific cod fishery. The Council determined that Amendment 113 is necessary to provide benefits and stability to fishery-dependent fishing communities in the Aleutian Islands. Amendment 113 is consistent with long-standing policies recommended by the Council and regulations established by NMFS to provide harvesting and processing protections for non-rationalized fisheries and opportunities for fishing communities engaged in fisheries in the Aleutian Islands.

If approved, Amendment 113 would amend four sections of the FMP as described below. First, a new row entitled “Aleutian Islands Catcher Vessel Harvest Set-Aside” would be added to Table ES-2 in the Executive Summary, below the row entitled “Retention and Utilization Requirements”, to read, “Under certain conditions, up to five thousand metric tons of the AI Pacific cod TAC (excluding CDQ) is reserved exclusively for harvest by vessels directed fishing for AI Pacific cod and delivering their catch for

processing to Aleutian Islands shoreplants west of 170 degrees W. long. from January 1 through March 15.” This harvest set-aside would be referred to as the “Aleutian Islands Catcher Vessel Harvest Set-Aside” in regulations.

Second, Amendment 113 would make two modifications in Section 3.2.3.4.3, “Apportionment of Total Allowable Catch”. Under subheading “3) Pacific cod”, the subheading “C) Seasonal Allocations” would be changed to read “B) Seasonal Allocations”. This change would be an editorial correction only. The second change in Section 3.2.3.4.3 would add a new subsection entitled “C) Bering Sea Trawl CV A-Season Sector Limitation” under subheading “3) Pacific cod”. This new subsection would state that if the Aleutian Islands Catcher Vessel Harvest Set-Aside is in effect, the trawl CV sector may not catch more than an amount that is equal to the trawl CV sector’s A-season Pacific cod allocation minus the lesser of either the Aleutian Islands non-CDQ Pacific cod directed fishing allowance or 5,000 mt in the Bering Sea subarea before March 21.

Third, a new subsection 3.6.5, entitled “Aleutian Islands Catcher Vessel Harvest Set-Aside”, would be added at the end of Section 3.6, “Catch Restrictions”. This new subsection would include the five main components of the Aleutian Islands Catcher Vessel Harvest Set-Aside:

- First, “Aleutian Islands shoreplant,” for purposes of the Aleutian Islands Catcher Vessel Harvest Set-Aside, would be defined to mean a processing facility physically located on land west of 170 degrees W. long.
- In the Aleutian Islands Pacific cod fishery, up to 5,000 mt of the non-CDQ directed fishing allowance would be reserved exclusively for harvest by vessels

directed fishing for Aleutian Islands Pacific cod and delivering their catch for processing to Aleutian Islands shoreplants from January 1 until March 15. This exclusive harvest reservation is the “Aleutian Islands Catcher Vessel Harvest Set-Aside.” Any amount of the Aleutian Islands Pacific cod non-CDQ directed fishing allowance in excess of the Aleutian Islands Catcher Vessel Harvest Set-Aside would be available for harvest by all non-CDQ sectors with available A-season allocations of Pacific cod and could be processed by any eligible processor.

- If less than 1,000 mt of the Aleutian Islands Catcher Vessel Harvest Set-Aside has been landed at Aleutian Islands shoreplants by February 28, the Bering Sea Trawl CV A-Season Sector Limitation and the Aleutian Islands Catcher Vessel Harvest Set-Aside would be suspended for the remainder of the year.
- Either the City of Adak or the City of Atka would be required to notify NMFS each year of its intent to process Aleutian Islands Pacific cod in the upcoming year for the Aleutian Islands Catcher Vessel Harvest Set-Aside to go into effect. Regulations implementing Amendment 113 will specify the date and the method by which the City of Adak or the City of Atka must notify NMFS. If neither the City of Adak nor the City of Atka notifies NMFS by the annual deadline of its intent to process Aleutian Islands Pacific cod, the Bering Sea Trawl CV A-Season Sector Limitation and the Aleutian Islands Catcher Vessel Harvest Set-Aside for Pacific cod would not apply for the upcoming year.
- If the entire Aleutian Islands non-CDQ Pacific cod directed fishing allowance is harvested prior to March 15, the Bering Sea Trawl CV A-Season Sector

Limitation and the Aleutian Islands Catcher Vessel Harvest Set-Aside for Pacific cod would not apply for the remainder of the year.

Finally, a section would be added to Appendix A, summarizing the main provisions of Amendment 113.

The Council considered a range of dates, set-aside amounts, and performance requirements before adopting its preferred alternative for Amendment 113. The Council determined and NMFS agrees that the combination of measures within Amendment 113 would give Aleutian Islands Pacific cod fishery participants and Aleutian Islands shoreplants sufficient opportunity to harvest and process the set-aside for Aleutian Islands Pacific cod. The Council also determined and NMFS agrees that the notification and performance requirements would prevent stranding BSAI Pacific cod TAC and preserve opportunities for the complete harvest of the BSAI Pacific cod resource.

NMFS is soliciting public comments on proposed Amendment 113 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 113, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. All comments received by the end of the comment period on Amendment 113, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the decision to approve or disapprove Amendment 113. Comments received after that

date may not be considered in the decision on Amendment 113. To be certain of consideration, comments must be received by NMFS, not just postmarked or otherwise transmitted, by the last day of the comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 14, 2016

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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